

LEGISLATIVE BILL 415

Approved by the Governor April 24, 1979

Introduced by Banking, Commerce and Insurance Committee,
DeCamp, 40, Chmn.; Fitzgerald, 14; Merz, 1;
Brennan, 9; Lewis, 45

AN ACT to adopt the Nebraska Life, Sickness and Accident Insurance Policy Readability Act; to establish minimum standards for readability of language used in policies of life insurance, sickness and accident insurance, credit life insurance, and credit accident and health insurance; to provide for procedures to measure readability; and to provide operative dates.

Be it enacted by the people of the State of Nebraska,

Section 1. This act shall be known and may be cited as the Nebraska Life, Sickness and Accident Insurance Policy Readability Act.

Sec. 2. The purpose of this act is to establish minimum standards for readability of language used in policies of life insurance, sickness and accident insurance, credit life insurance, and credit accident and health insurance delivered or issued for delivery in this state. This act is not intended to change the risks assumed by insurers subject to the act, nor to change their obligation to comply with the substance of other insurance laws applicable to life, sickness and accident, credit life, or credit accident and health insurance policies. This act is not intended to prevent flexibility and innovation in the development of policy forms or content nor to require standard policy forms or content.

Sec. 3. As used in this act, unless the context otherwise requires:

(1) Director shall mean the Director of Insurance;

(2) Insurer shall mean any company, corporation, exchange, society, or association whether organized on the stock, mutual, assessment, or fraternal plan of insurance, which is authorized under the laws of this state to provide life insurance, sickness and accident insurance, credit life insurance, or credit accident and health insurance, including but not limited to fraternal benefit societies, nonprofit health service corporations, nonprofit hospital service corporations, and health maintenance organizations; and

(3) Policy shall mean any contract of life insurance, sickness and accident insurance, credit life insurance, or credit accident and health insurance delivered or issued for delivery in this state by any insurer subject to this act.

Sec. 4. This act shall apply to all policies, except:

(1) Any policy which is a security subject to federal jurisdiction;

(2) Any group policy covering a group of one thousand or more lives at date of issue, other than a group credit life insurance policy or a group credit accident and health insurance policy, but this shall not exempt any individual certificate issued under a group policy delivered or issued for delivery in this state;

(3) Any group annuity contract which funds a pension, profit-sharing, or deferred compensation plan;

(4) Any form used in connection with, as a conversion from, as an addition to, or in exchange under, a contractual provision for a policy delivered or issued for delivery on a form approved or permitted to be issued before the dates such forms must be approved under this act; or

(5) The renewal of a policy delivered or issued for delivery before the dates such forms must be approved under this act.

Sec. 5. (1) No policy of life insurance, sickness and accident insurance, credit life insurance, or credit accident and health insurance shall be delivered or issued for delivery in this state unless: (a) The text achieves a minimum score of forty on the Flesch reading ease test or an equivalent score on any other comparable test which has been approved by the director; (b) the policy is printed, except for specification pages, schedules, and tables, in not less than ten point type, one point leaded; (c) the style, arrangement, and overall appearance of the policy gives no undue prominence to any portion of the text of the policy or to any endorsements or riders; and (d) a table of contents or an index of the principal sections of the policy is provided with the policy, if the policy has more than three thousand words printed on three or fewer pages of text, or if the policy has more than three pages regardless of the number of words.

(2) For the purposes of this section, a Flesch reading ease test score shall be measured by the following method: (a) For policies containing ten thousand words or less of text, the entire policy shall be analyzed. For policies containing more than ten thousand words, the readability of two two-hundred word samples per page may be analyzed instead of the entire policy. The samples shall be separated by at least ten printed lines; (b) the number of words and sentences in the text shall be counted and the total number of words divided by the total number of sentences. The figure obtained shall be multiplied by a factor of 1.015; (c) the total number of syllables shall be counted and divided by the total number of words. The figure obtained shall be multiplied by a factor of 84.6; and (d) the sum of the figures computed under subdivisions (b) and (c) of this subsection subtracted from 206.335 equals the Flesch reading ease score for the policy.

(3) For the purposes of subdivisions (2) (b), (2) (c), and (2) (d) of this section, the following procedures shall be used: A contraction, hyphenated word, or numbers and letters, when separated by spaces, shall be counted as one word; a unit of words ending with a period, semicolon, or colon, but excluding headings and captions, shall be counted as a sentence; and, a syllable means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary. When the dictionary shows two or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.

(4) The term text as used in this section shall include all printed matter except the following: (a) The name and address of the insurer; the name, number, or title of the policy; the table of contents or index; captions and subcaptions; specification pages, schedules, or tables; and (b) any policy language which is drafted to conform to the requirements of any federal law, regulation, or agency interpretation; any policy language required by any collective bargaining agreement; any medical terminology; any words which are defined in the policy; and any policy language required by law or regulation, if the insurer identifies the language or terminology excepted by this subsection, and certifies, in writing, that the language or terminology is entitled to be excepted by subdivision (b) of this subsection.

(5) Filings subject to this section shall be accompanied by a certificate signed by an officer of the insurer stating that it meets the minimum reading ease score on the test used, or stating that the score is lower than the minimum required but should be approved in

accordance with section 6 of this act. To confirm the accuracy of any certification, the director may require the submission of further information to verify the certification in question.

(6) Riders, endorsements, applications, and other forms made a part of the policy may be scored as separate forms or as part of the policy with which they may be used.

Sec. 6. The director may authorize a lower score than the Flesch reading ease score required in subsection (1) of section 5 of this act whenever, in his or her sole discretion, he or she finds that a lower score: (1) Will provide a more accurate reflection of the readability of a policy form; (2) is warranted by the nature of a particular policy form or type or class of policy forms; or (3) is caused by certain policy language which is drafted to conform to the requirements of any state law, regulation, or agency interpretation.

Sec. 7. A policy meeting the requirements of section 5 of this act shall be approved, notwithstanding the provision of any other laws which specify the content of policies, if the policy provides protection not less favorable than that required by such laws.

Sec. 8. This act applies to all policies filed on or after June 30, 1981. No policy shall be delivered or issued for delivery in this state on or after June 30, 1984, unless approved by the director or permitted to be issued under this act. Any policy which has been approved or permitted to be issued before June 30, 1984, and which meets the standards set by this act, need not be refiled for approval, but may continue to be lawfully delivered or issued for delivery in this state upon the filing with the director of a list of such policies identified by policy number and accompanied by a certificate as to each such policy in the manner provided in section 5 of this act.